

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

AMERICAN CONTRACTORS  
INDEMNITY COMPANY,

Plaintiff,

vs.

LEADCO, LLC, GELHAAR LEE,  
and PATTY LEE,

Defendants.

Case No. 4:11CV02126 AGF

**MEMORANDUM AND ORDER**

This case was assigned to United States District Judge Charles A. Shaw. On March 27, 2014, Judge Shaw denied Defendant Patty Lee's motion for summary judgment, granted Plaintiff's cross motion for summary judgment, and stated that he would issue an order of dismissal as to Defendant Gelhaar Lee based on his filing and discharge in bankruptcy. Thereafter, but before final judgment was entered, Judge Shaw became aware of circumstances which might give rise to the need for recusal pursuant to 28 U.S.C. § 455,<sup>1</sup> and upon his order that the case be reassigned to a different district judge, filed on May 12, 2014, the case was reassigned to the undersigned.

Because Judge Shaw did not learn of the facts indicating a need for recusal until after he entered his March 27, 2104 Order, vacating that Order is not required. *See Davis*

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<sup>1</sup> Judge Shaw explained to the undersigned that he was acquainted with one of the parties to the case, whom he knew by a different first name than the name appearing in the case, and only recently learned of or made the connection with his acquaintance's formal name and realized the acquaintance was a party in the case.

*v. Xerox*, 811 F.2d 1293, 1296 (9th Cir. 1987). Nevertheless, to avoid any appearance of impropriety, the Court will do so.

Accordingly,

**IT IS HEREBY ORDERED** that the Memorandum and Order (Doc. No. is 59) denying Defendant Patty Lee's motion for summary judgment, granting Plaintiff's motion for summary judgment, and stating that an order of dismissal shall be issued as to Defendant Gelhaar Lee, is **VACATED**.

**IT IS FURTHER ORDERED** that Plaintiff and Defendant Patty Lee shall have ten days from the date of this Order to supplement their respective memoranda in support of their motions for summary judgment in any way they deem necessary, and otherwise respond to Defendant Gelhaar Lee's notice of bankruptcy.

Audrey G. Fleissig  
AUDREY G. FLEISSIG  
UNITED STATES DISTRICT JUDGE

Dated this 13th day of May, 2014.